IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10 -02-2005

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

W.P.No.16753 of 1997

K.P.Velayudham, M.A., M.Ed.,
Senior Grade Assistant
Hindu Higher Secondary School
Vaniyambadi. ... Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary and
Commissioner,
Education Department,
Fort St. George,
Chennai-600 009.

2. District Education Officer,
Tirupattur,
Vellore District.

3. The Secretary,
Hindu Higher Secondary School,
Vaniyambadi,
Vellore District-635 751. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus as stated below.

For petitioner .. Mr.K.Sridhar

For respondents 1 & 2.. Mr.R.Lakshmi Narayanan
Government Advocate
For respondent 3 .. No Appearance

O R D E R:-

Writ Petition praying to issue a Writ of Certiorarified Mandamus calling for the entire records leading to the issue of G.O. Ms. No. 1023 Education,

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Science and Technology Department dated 9-12-1993 on the file of the first respondent and the consequential proceedings of second respondent O.Mu.No.5746/AA2/96 dated 5-8-1996 and quash the same and direct the respondents 1 to 3 to grant two advance incentive increments from 2-1-1987 for acquiring higher qualification in M. Ed. of Rs. 60 + Rs.60 = Rs.120/- from 2-1-1987 with back wages and attendant benefits therein.

2. Today, when the above matter was taken up for consideration, on a perusal of the materials placed on record and upon hearing the learned counsel for both, it comes to be seen that the petitioner, who was working as B.T. Assistant from 13-10-1995 in the third respondent's School was sanctioned two advance incentive increments in April 1981 of Rs.20/- + Rs.20/- = Rs.40/- for possessing the additional higher qualification; that for completing M.A. in May 1984, the petitioner was sanctioned two advance incentive increments in March 1985 of Rs.20/- + Rs.25/- = Rs.45/-; that subsequently, the petitioner completed M.Ed., for which, he is entitled to get two advance incentive increments as per G.O.Ms.No.42 Education Department dated 10-1-1969; that by a letter No.590 Education Department dated 29-3-1976, a limitation of only four advance increments for acquiring higher qualification was prescribed, which was challenged before this Court in W.P.No. 5191 of 1980; that the said Writ Petition was allowed, thereby, the petitioner therein was given the 5th and 6th incentive increments for passing M.Ed.; that amending the above mentioned G.O., the Government issued G.O.Ms.Nos.1023 and 1024, Education Science and Technology Department dated 9-12-1993; that according to G.O.Ms.No.1023 dated 9-12-1993 in future the maximum number of advance increments admissible to a teacher for obtaining higher qualification shall be four only; that for the letter of the third respondent dated 13-5-1996, the second respondent by his impugned letter dated 5-8-1996 Mu.Mu.No.5746/AA2/96 has replied stating that the petitioner is not entitled to the 5th and 6th incentive increments, even though, he had M.Ed. Qualification on the date of G.O.Ms.No.1023, dated 9-12-1993 as he was not working as B.T. Assistant; that having aggrieved, the petitioner has come forward to file the above Writ Petition praying for the relief extracted supra.

3. The learned counsel for the petitioner would submit that the petitioner has completed B.Ed., even while he was serving as Secondary Grade Assistant and even though he was eligible to be promoted as B.T. Assistant, for want of vacancy, he was not promoted till 13-10-1995 and

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therefore, he should not be denied and deprived of getting the two advance incentive increments for passing M.Ed. and alleging that the G.O.No. 1023 dated 9-12-1993 is arbitrary and illegal, as it prescribes, that a person should be working as B.T. Assistant, while obtaining the higher qualification of M.Ed. for getting the two incentive increments and would pray to strike down the said G.O. and to grant him two incentive increments from the date, he passed the M.Ed. Examination viz., 2.1.1987 with arrears and back wages.

4. The learned Government Advocate representing the respondents No. 1 and 2 would submit that as per G.O.Ms. No. 1023 dated 9-12-1993 a person would be entitled to two incentive increments for passing M.Ed. only if he was working as B.T. Assistant on the date of the said G.O.; that on the date of the said G.O., even though the petitioner possessed the higher qualification of M.Ed., since, he was working as Secondary Grade Assistant, he is not entitled to get the 5th and 6th incentive increments and as per the said G.O. in future the maximum number of advance increments admissible to a teacher for obtaining higher qualification shall be four only and hence, the petitioner was already sanctioned four incentive increments, the relief sought for by him in this Writ Petition requires no consideration and would pray to dismiss the above Writ Petition.

5. In consideration of the facts pleaded, and having regard to the materials placed on record and upon hearing the learned counsel for the petitioner and the learned Government Advocate representing the respondents 1 and 2 with no representation made on the part of the third respondent, what this Court is able to assess is that the petitioner has come forward to file the above writ petition praying to quash the order passed by the first respondent in G.O.Ms.No.1023 Education Science and Technology Department dated 9.12.1993 and consequent to the proceedings of the 2nd respondent passed in O.Mu.No.5746/AA2/96 dated 5.8.1996 direct the respondents to grant two advance incentive increments from 2.1.1987 for acquiring higher qualification in M.Ed., with arrears and back-wages. It is an admitted case of the petitioner that he was working as Secondary Grade Assistant and even though he possessed the higher qualification of M.Ed., he has not worked as a B.T. Assistant whereas the impugned G.O., and the consequent Circular issued by the second respondent mentioned supra are specific to the effect that if two more incentive increments are to be granted for having possessed M.Ed., degree one must have worked as B.T.

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Assistant which is a condition precedent. This provision embodied in the G.O.Ms.No.1023 has some object to be achieved in the teaching field as a result of which the Government have thought it fit to introduce the said G.O. consequent to which a communication has been issued by the second respondent as per its proceedings dated 5.8.1996 and the reason being better teaching qualification to the encouragement of the teachers in the field of teaching the students as it is found in existence in B.T. Assistants than one who has annexed a higher degree M.Ed., without being a B.T. Assistant and therefore the Government in bringing in the impugned G.O. there are some objectives to be achieved and the same is applicable to one and all in the field of Education, which the petitioner would pray to do away with, since he is not benefited personally in the grant of the 2 incentive increments and therefore there is no pith or substance in the arguments of the petitioner that the G.O., and the consequent communication of the second respondent should be quashed.

6. This Court is not able to see any valid or tangible reason existing in the arguments of the petitioner to quash the said G.O.Ms.No.1023 and the letter of the second respondent issued consequent to the said G.O.Ms.No.1023 which are impugned herein. Therefore the only course that is left with in the circumstances of the case is to dismiss the above writ petition as without any merit and the same is dismissed accordingly.

In result,

(i) The above writ petition does not merit acceptance and the same only becomes liable to be dismissed and is dismissed accordingly;

(ii) The impugned G.O. Ms. No. 1023 Education, Science and Technology Department dated 9-12-1993 issued by first respondent and the consequential proceedings of second respondent issued in O.Mu.No.5746/AA2/96 dated 5-8-1996 are hereby confirmed;

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(iii) There shall be no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

paa/ks
Copy to:-

1. The Secretary & Commissioner,
   Education Department,
   Fort St. George,
   Chennai-600 009.

2. District Education Officer,
   Tirupattur,
   Vellore District.

+1cc to Mr.K.Sridhar Advocate Sr 6185

+1cc to Govt. Pleader Sr 6133

TEK (CO)
km/04.03

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